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DECISION ONE MORTGAGE COMPANY, LLC

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

CODY NICHOLS, an individual,

Plaintiff,

vs.

DEUTSCHE BANK NATIONAL TRUST, as Trustee for Morgan Stanley Loan Trust 2006-HE4, an entity of unknown form; DECISION ONE MORTGAGE COMPANY, LLC, a North Carolina Limited Liability Company; and DOES 1-10, inclusive,

Defendants.

CASE NO. 07-CV-2039-L (NLS)

**DEFENDANT DECISION ONE MORTGAGE COMPANY, LLC'S UNOPPOSED EX PARTE APPLICATION FOR AN ORDER EXCUSING THE PERSONAL APPEARANCE REQUIREMENT AT THE EARLY NEUTRAL EVALUATION CONFERENCE; DECLARATION OF GREGORY S. KORMAN IN SUPPORT**

DATE: January 9, 2008
TIME: 9:30 a.m.
PLACE: Courtroom 1118

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# MEMORANDUM OF POINTS AND AUTHORITIES

## I. INTRODUCTION

Defendant Decision One Mortgage Company, LLC ("Decision One") applies ex parte for an order excusing it from the requirement for personal appearance at the Early Neutral Evaluation Conference (the "ENE Conference"). Decision One's appropriate corporate representatives are all located in Prospect Heights, Illinois. If relief is granted, Decision One's counsel will personally appear at the ENE Conference, and its authorized corporate representative will be available by telephone to meaningfully participate in settlement discussions.

## II. STATEMENT OF FACTS

On November 27, 2007, counsel for Decision One received notice that the ENE Conference was scheduled for January 9, 2008. Pursuant to Local Rule, the parties or their representatives must personally appear at the ENE Conference. (Declaration of Gregory S. Korman ("Korman Decl.") ¶ 2.)

The corporate headquarters of Decision One's parent corporation, HSBC, is located in Prospect Heights, Illinois. The appropriate decision-makers for Decision One are all employed at the Prospect Heights location. There are no employees of Decision One currently residing or employed within the State of California. Compliance with the personal appearance requirement entails airline travel, hotel accommodations, disruption of normal business and attendant expense. (Korman Decl. ¶ 3.)

The complaint seeks recission of a home mortgage loan that has been assigned by Decision One to another lender. On these facts, meaningful settlement negotiations by Decision One can be accomplished telephonically. Decision One's decision-maker will be available to participate in the proceedings telephonically, and its counsel will personally attend. (Korman Decl. ¶ 4.)

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## III. GOOD CAUSE EXISTS TO PERMIT DECISION ONE'S REPRESENTATIVE TO APPEAR TELEPHONICALLY AT THE ENE CONFERENCE

Permitting Decision One's representative to participate in the ENE Conference by telephone is appropriate under the circumstances. The requested relief will not meaningfully affect settlement of this action. On the other hand, personal appearance is expensive and will not materially improve the likelihood of informal resolution. On this record, Decision One respectfully submits that good cause exists to excuse Decision One from the personal appearance requirement at the ENE Conference.

## IV. CONCLUSION

For the foregoing reasons, Decision One respectfully requests that this Court grant this application by issuing an Order permitting the representative to appear telephonically.

Dated: December 17, 2007

KATTEN MUCHIN ROSENMAN LLP
Stuart M. Richter
Gregory S. Korman
David Newman

By: /s/ Gregory S. Korman
Gregory S. Korman
Attorneys for DECISION ONE MORTGAGE COMPANY, LLC

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**DECLARATION OF GREGORY S. KORMAN**

I, Gregory S. Korman, hereby declare:

1. I am an associate at the law firm Katten Muchin Rosenman LLP, counsel of record in this action for defendant Decision One Mortgage Company, LLC ("Decision One"). I make this declaration in support of Decision One's Ex Parte Application For An Order Excusing The Personal Appearance Requirement At The Early Neutral Evaluation Conference.

2. On November 27, 2007, I received notice that the Court scheduled the Early Neutral Evaluation Conference (the "ENE Conference") for January 9, 2008. The Court's Order states that, pursuant to Local Rule, the parties or their representatives must personally appear at the ENE Conference.

3. I have represented HSBC and its predecessor, Household, for six years. During that time, I have become personally familiar with the consumer lending operations of HSBC and its subsidiaries and affiliates, such as Decision One. The corporate headquarters of Decision One's parent corporation, HSBC, are located in Prospect Heights, Illinois. The decision-makers for Decision One are all employed at the Prospect Heights location. There are no employees of Decision One currently residing or employed within the State of California. In order for Decision One to comply with the Court's Order, its representative would have to incur the expense and lost productivity associated with, among other things, at least eight hours of airline travel time, overnight hotel accommodations, and disruption of normal business for at least two days.

4. The complaint filed by plaintiff Cody Nichols alleges one cause of action against Decision One for recission of a consumer mortgage loan assigned by Decision One to another lender. Give this narrow issue, meaningful settlement negotiations by Decision One can be accomplished telephonically. Decision One's decision-maker will be available to participate in the proceedings telephonically, and I will personally attend.

5. On November 29, 2007, my colleague, David M. Newman, telephoned Deborah L. Raymond, counsel for plaintiff Cody Nichols, to give ex parte notice of this application. Ms. Raymond stated that she would not oppose the application.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and was executed on December 17, 2007, at Los Angeles, California.

/s/ Gregory S. Korman
Gregory S. Korman

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